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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/501,170 | 07/12/2004 | Aldo Stabile | 3063 | 5433 |
| 7590 | 11/16/2006 | | EXAMINER | |
| Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743 | | | CHIMIAK, EMILY ANN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1733 | |

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/501,170

Applicant(s)

STABILE, ALDO

Examiner

Emily Chimiak

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 3,7 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 5 is/are rejected.
- 7) ☒ Claim(s) 3,7 and 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 07/12/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Double Patenting

Claim Objections

1. Claims 3, 7 and 8 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 3, 7 and 8 have not been further treated on the merits.

Claim Rejections - 35 USC § 101

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 2 and 5 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4, and 11 of copending Application

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No. US 2005/0139316. Although the recitation is not identical, the described inventions have the same structure and function in the same manner.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Roberts (US 4202721).

As to claim 1, Roberts discusses a sealing machine with a conveyor means (continuous installation). The lower plate is maintained in position by pressure means 47 (fixed lower plate) and an upper plate is connected to fluid cylinders mounted on upper brackets 49 that raise and lower the insulating plate 52. The metal bands aid in conveying the heat sealable material through the machine, i.e. *a metal band is placed to carry and draw inside the press components of the plastic laminates*. Heating the substrate is accomplished by running an electrical current through resistive metal bands trained around the pulleys, i.e. *the fraction of said metal band comprised between the two electrodes (the pulleys) acts as an electric resistance generating the heat*(col. 3, lines 2-6,

lines 11-14, lines 28-43 and line 68 and col. 4 lines 1-5, lines 29-47). As to claim 4, flattened tubes of substrate are conveyed through the machine by motor 41, *i.e. bands of pre-preg and strips of copper are fed in from reels their onward movement being aided by electric motor-driven means*. It is assumed that a flattened tube would function the same as a reel. As to claim 5, Roberts teaches conveying the heat sealable material over a table with friction bands 19 and 20 just above the surface, *i.e. the plastic laminates comprise a group of components...placed to slide on the surface of a horizontal structure situated upstream of the press substantially at the level of the metal band for supporting and drawing the components along, placed inside the press itself* (col. 2 line 67-68 and col. 3, lines 1-10 and lines 38-43). It is noted that Robert's machine is capable of producing plastic laminates including multi-layer laminates.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Traut (US 3236714) and in further view of Roberts and Taylor (US 5725711).

Traut discloses a press of heated plates that can be opened and closed (*a fixed lower plate and an upper mobile plate*). A carrier sheet is wound from a supply roll on one side of the press to a windup roll located at the other side of the press, feeding the material through the apparatus (Figure 3 col. 4 lines 74-75 and col. 5 lines 1-2). This setup requires less cleaning than heated presses operating without carrier sheets (col. 2 lines 17-18).

Traut does not teach a heated metal band placed to carry and draw inside the press components of the plastic laminates or a fixed lower plate.

However, Roberts discloses a press where metal bands aid in conveying the heat sealable material through the machine, the lower plate is maintained in position by pressure means 47 (fixed lower plate) and an upper plate is connected to fluid cylinders mounted on upper brackets 49 that raise and lower the insulating plate 52, and heating the substrate is accomplished by running an electrical current through resistive metal bands trained around the pulleys, i.e. *the fraction of said metal band comprised between the two electrodes (the pulleys) acts as an electric resistance generating the heat* (col. 3, lines 2-6, lines 11-14, lines 28-43 and line 68 and col. 4 lines 1-5, lines 29-47). Taylor teaches a

press apparatus in which the upper platen assembly may be moved toward and from the lower platen assembly and the lower platen assembly is fixed (col. 4 lines 49-52).

It would have been obvious at the time of invention to replace the heating method of Traut's double-platen press with a current directly applied to the carrier sheet as taught by Roberts in order to increase energy efficiency by placing the laminate in direct contact with the heating source and to keep the lower plate fixed in order to mount it to the frame base.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Chimiak whose telephone number is (571)272-6486. The examiner can normally be reached on Monday-Friday 8:30-5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)272-6486. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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